

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors and Reorganized Debtors.¹

PROMESA Title III

No. 17 BK 3283-LTS
(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY,

Debtor.

PROMESA Title III

No. 17 BK 4780-LTS
(Jointly Administered)

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523 (LTS)) (Last Four Digits of Federal Tax ID: 3801). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

Plaintiff-Movant,

v.

HON. PEDRO PIERLUISI, in his official capacity as
Governor of Puerto Rico; and HON. JOSE LUIS DALMAU,
in his official capacity as President of the Senate of Puerto
Rico.

Defendants-Respondents.

Adv. Proc. No. 24-00062

**URGENT CONSENTED-TO MOTION FOR ORDER GRANTING LEAVE TO
EXCEED PAGE LIMITS IN CONNECTION WITH FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO'S MOTION FOR
SUMMARY JUDGMENT PURSUANT TO BANKRUPTCY RULE 9056**

To the Honorable United States Magistrate Judge Judith G. Dein:

Plaintiff Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as Title III representative of Puerto Rico Electric Power Authority (“PREPA” or the “Debtor”), pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² respectfully submits this urgent motion (the “Urgent Motion”) requesting entry of an order, substantially in the form annexed hereto as **Exhibit A**, allowing the Oversight Board leave to exceed the thirty-five (35) page limit set forth in the *Nineteenth Amended Notice, Case Management and Administrative Procedures* ¶ I.E [Case No. 17-3283, ECF No. 27218-1] (the “Case Management Procedures”) for its forthcoming Motion for Summary Judgment Pursuant to Bankruptcy Rule 7056 (the “Summary Judgment Motion”) and to increase that limit to no more than forty (40) pages, exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service. The Oversight Board respectfully states as follows:

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction pursuant to PROMESA §§ 306(a) and (b) because this adversary proceeding arises under PROMESA Title III, in a Title III case, relates to PREPA’s underlying PROMESA Title III case, and/or involves disputes over property of PREPA.

2. Venue is proper under PROMESA § 307 because this adversary proceeding is brought in a PROMESA Title III case.

² PROMESA has been codified at 48 U.S.C. §§ 2101–2241.

BACKGROUND

3. On July 26, 2024, the Oversight Board initiated this adversary proceeding by filing the complaint [ECF No. 1] (the “Complaint”) against the Honorable Pedro Pierluisi (the “Governor”), in his official capacity as Governor and defender and enforcer of the Commonwealth’s laws, seeking to nullify and enjoin the enactment and implementation of Act 10-2024 (“Act 10”).

4. On August 9, 2024, the Court issued an order setting an expedited briefing schedule for motions for summary judgment on the causes of action in the Complaint. *See Order Setting Expedited Schedule* [ECF No. 6] (the “Briefing Schedule Order”) ¶ 5. As per the Briefing Schedule Order, any party may file a motion for summary judgment on or before September 25, 2024. *Id.*

5. On August 22, 2024, the Honorable Jose Luis Dalmau (the “Senate President” or the “Defendant-Intervenor”), in his official capacity as President of the Senate of Puerto Rico, moved to intervene in the action. *See Motion to Request Intervention on Behalf of the Senate of Puerto Rico and the Honorable Jose Luis Dalmau in His Official Capacity as President of the Senate of Puerto Rico* [ECF No. 8].

6. On September 11, 2024, the Court granted in part and denied in part the Senate President’s motion, which allowed him to intervene in the action and submit briefing in accordance with the Briefing Schedule Order. *See Order Allowing in Part and Denying in Part the Senate President’s Intervention Motion* [ECF No. 27] at 3.

RELIEF REQUESTED

7. The Oversight Board respectfully requests leave to file an oversized Summary Judgment Motion not to exceed 40 pages (*i.e.*, five additional pages), exclusive of the cover page,

the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service.

8. Paragraph I.E. of the Case Management Procedures provides, “[u]nless prior permission has been granted[,] . . . memoranda of law in support of motions . . . are limited to thirty-five (35) pages.” Case Management Procedures ¶ I.E.

9. Good cause exists to grant the Urgent Motion. The Oversight Board intends to file a Summary Judgment Motion addressing each of the myriad issues presented in the Complaint, as well as responding to matters raised by the Governor’s and the Senate President’s answers to the Complaint. In particular, as set forth in the Complaint, the Oversight Board has numerous bases for its determination that Act 10 impairs and/or defeats the purposes of PROMESA pursuant to § 108(a). *See* Compl. ¶¶ 25–47, 66–76. The Complaint also sets out multiple ways in which the Government’s submissions under PROMESA § 204(a) regarding Act 10 were deficient and why, as a result, Act 10 should be nullified. *Id.* ¶¶ 48–65, 77–86. Accordingly, the Oversight Board respectfully requests leave to file a 40-page brief, exceeding the page limit for memoranda of law as prescribed in the Case Management Procedures by five pages, exclusive of the cover page, tables of contents and authorities, signature pages, exhibits, and certificate of service.

10. The Governor and the Senate President have consented to the relief requested herein.

11. Accordingly, the Oversight Board submits the request made herein is reasonable in light of the circumstances described above.

**CERTIFICATION IN COMPLIANCE WITH LOCAL RULE 9013-1 AND THE
NINETEENTH AMENDED CASE MANAGEMENT PROCEDURES**

12. Pursuant to Local Rule 9013-1 and ¶ I.H of the Case Management Procedures,

the undersigned hereby certify that counsel have carefully examined the matter and concluded that there is a true need for expedited consideration of this motion and that the Oversight Board has not created the urgency through lack of due diligence on its part. The undersigned further certify that the parties made a bona fide, reasonable, and good-faith effort to resolve the issues addressed in this motion prior to filing, and that the Governor and the Senate President consent to the relief sought herein.

NO PRIOR REQUEST

13. The Oversight Board respectfully requests that the Court grant it leave to file an oversized Summary Judgment Motion not to exceed 40 pages (*i.e.*, five additional pages), exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service.

CONCLUSION

14. WHEREFORE, the Oversight Board respectfully requests that the Court enter the Proposed Order attached as **Exhibit A** granting the relief requested herein and all other relief as is just and proper.

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Dated: September 20, 2024
San Juan, Puerto Rico

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*Attorneys for the Financial Oversight and
Management Board for Puerto Rico in its
own right and as representative of the
Puerto Rico Electric Power Authority*

EXHIBIT A

Proposed Order

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors and Reorganized Debtors.¹

PROMESA Title III

No. 17 BK 3283-LTS
(Jointly Administered)

In re:

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PROMESA Title III

No. 17 BK 4780-LTS
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THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

Plaintiff-Movant,

v.

HON. PEDRO PIERLUISI, in his official capacity as
Governor of Puerto Rico; and HON. JOSE LUIS DALMAU,
in his official capacity as President of the Senate of Puerto
Rico.

Defendants-Respondents.

Adv. Proc. No. 24-00062

**[PROPOSED] ORDER GRANTING URGENT CONSENTED-TO MOTION FOR ORDER
GRANTING LEAVE TO EXCEED PAGE LIMITS IN CONNECTION WITH FINANCIAL
OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO'S
SUMMARY JUDGMENT BRIEFING**

Upon the *Urgent Consented-to Motion for Order Granting Leave to Exceed Page Limits in Connection With Financial Oversight and Management Board for Puerto Rico's Summary Judgment Briefing* (the "Urgent Motion"); and the Court having found it has subject-matter jurisdiction over this matter pursuant to § 306(a) of PROMESA; and it appearing that venue in this district is proper pursuant to § 307(a) of PROMESA; and the Court having found that the parties provided adequate and appropriate notice of the Urgent Motion under the circumstances and that no other or further notice is required, and upon the record herein, after due deliberation thereon, the Court having found that good and sufficient cause exists for the granting of the relief set forth herein,

IT IS HEREBY ORDERED THAT:

1. The Urgent Motion is GRANTED as set forth herein.
2. The Oversight Board may file a memorandum in support of a motion for summary judgment/judgment on the pleadings of no more than 40 pages, exclusive of the cover page, tables of contents and authorities, signature pages, exhibits, and certificate of service.

3. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: _____, 2024

HONORABLE JUDITH G. DEIN
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Miguel E. Gierbolini
Miguel E. Gierbolini